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ELIAS C. ALVORD (1942)  
ELLSWORTH C. ALVORD (1964)

RECORDATION NO. 24733 FILED  
DEC 12 '03 11-40 AM  
SURFACE TRANSPORTATION BOARD

OF COUNSEL  
URBAN A. LESTER

December 12, 2003

Mr. Vernon A. Williams  
Secretary  
Surface Transportation Board  
Washington, D.C. 20423

Dear Mr. Williams:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of a Memorandum of Mortgage, dated as of December 12, 2003, a primary document as defined in the Board's Rules for the Recordation of Documents.

The names and addresses of the parties to the enclosed document are:

Debtor: Babcock & Brown Rail Funding LLC  
230 Park Avenue  
New York, NY 10169

[Secured Party: Bayerische Hypo-Und Vereinsbank AG, Agent  
FPA 4 Lease/Asset Finance  
Am Tucherpark 1 (FPA)  
80538 Munich  
Germany]

Mr. Vernon A. Williams  
December 12, 2003  
Page Two

A description of the railroad equipment covered by the enclosed document is:

150 flatcars BCOL 873000 – BCOL 873149  
50 flatcars BCOL 873800 – BCOL 873849  
230 railcars CEFX 64871– CEFX 65100  
50 covered hopper railcars CEFX 76034 – CEFX 76083  
120 railcars CEFX 63944 – CEFX 64063  
125 railcars CEFX (formerly TILX) 635503 – 635627  
100 covered hopper railcars CEMX 120001 – CEMX 120100  
49 covered hopper railcars within the series CEFX 81174 – CEFX 81360  
200 railcars NS 166060 – NS 166259  
45 boxcars CHTT 101100 – CHTT 101144  
and the leases related thereto.

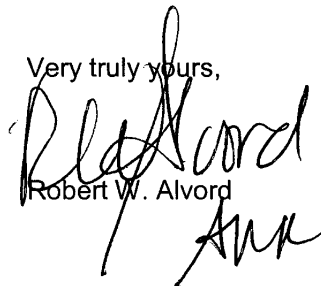
A short summary of the document to appear in the index is:

Memorandum of Mortgage

Also enclosed is a check in the amount of \$30.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,

  
Robert W. Alvord

RWA/anr  
Enclosures

RECORDATION NO. 24733 FILED

DEC 12 '03

11-40 AM

SURFACE TRANSPORTATION BOARD

EXECUTION COPY

**MEMORANDUM OF MORTGAGE**

Memorandum of Mortgage, made and entered into as of December 12, 2003 between BABCOCK & BROWN RAIL FUNDING LLC, (the "Debtor") and BAYERISCHE HYPO-UND VEREINSBANK AG, as Agent under the Security Agreement referred to below (together with its successors and permitted assigns, the "Secured Party"). Terms used in this instrument have the meanings assigned thereto in the Amended and Restated Security Agreement dated as of October 18, 2002 (as supplemented, including by Security Agreement Supplement No. 6 dated the date hereof, the "Security Agreement") between the Secured Party and the Debtor.

**WITNESSETH:**

The undersigned and the Secured Party have entered into the Security Agreement, by which the Debtor has granted a security interest in certain railroad equipment bearing reporting marks and road numbers as listed on Exhibit A attached hereto and in each lease referred to on Exhibit B attached hereto to the Secured Party in order to secure the Debtor's performance of its obligations as described in the Security Agreement.

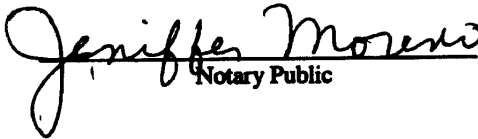
IN WITNESS WHEREOF, the party hereto has caused this memorandum to be duly executed by its officer duly authorized as of the date and year first above written.

BABCOCK & BROWN RAIL FUNDING LLC

By   
Name: Lawrence E. Littlefield  
Title: Vice President

STATE OF NEW YORK     )  
                                      ) ss.:  
COUNTY OF NEW YORK    )

On the 12 day of December in the year 2003 before me personally came Lawrence E. Littlefield to me known, who, being by me duly sworn, did depose and say that he is the Vice President of Babcock & Brown Rail Funding LLC, the limited liability company described in and which executed the above instrument; and that he signed his name thereto by authority of the officers of said limited liability company.

  
Notary Public

[Notarial Seal]

*Jennifer Moreno*  
*Notary Public, State of New York*  
*No. 01M06096346*  
*Qualified in Queens County*  
*Commission Expires January 24, 2006*

Memorandum of Mortgage

NEWYORK#128434.1

**Exhibit A  
to Memorandum of Mortgage**

**EQUIPMENT**

Lease #	# Cars	Year Built	Description	Reporting Marks	Casualty Marks
1	30	2002	6351 CF Covered Hopper Railcar, 286,000 GRL, AAR Code C 114, manufactured by Thrall Trinity Freightcar, Inc.	[TILX] 635503-635532, inclusive  <b>[NOTE: These railcars are in the process of being re-marked with CEFX marks]</b>	None.
	95	2003	6351 CF Covered Hopper Railcar, 286,000 GRL, AAR Code C 114, manufactured by Thrall Trinity Freightcar, Inc.	[TILX] 635533-635627, inclusive  <b>[NOTE: These railcars are in the process of being re-marked with CEFX marks]</b>	None.
2	100	2001	3250 CF Covered Hopper Railcar, 286,000 GRL, AAR Code C 112, manufactured by Thrall Car Manufacturing Company	CEMX 120001-120100, inclusive	None.
3	120	2001	4300 CF Aluminum Coal Hopper Railcar, 286,000 GRL, AAR Code K 341, manufactured by Johnstown America Corporation	CEFX 63944-64063, inclusive	None.

4	50	2002	5660 CF Pressure Differential Covered Hopper Railcar, 286,000 GRL, AAR Code C 614, manufactured by Thrall Car Manufacturing Company	CEFX 76034-76083, inclusive	None.
5	230	2003	4300 CF Aluminum Coal Hopper Railcar, 286,000 GRL, AAR Code K 341, manufactured by Johnstown America Corporation	CEFX 64871-65100, inclusive	None.
6	50	2003	73' Centerbeam Flatcar with riserless deck, 286,000 GRL, AAR Code F 483, manufactured by National Steel Car Limited	BCOL 873800-873849, inclusive	None.
7	150	2003	73' Centerbeam Flatcar with riserless deck, 286,000 GRL, AAR Code F 483, manufactured by TrentonWorks Limited	BCOL 873000-873149, inclusive	None.
8	200	1998	42' Single Covered Coil Steel Car, 286,000 GRL, AAR Code E 241, manufactured by National Steel Car Limited	NS 166060-166259, inclusive	None.

9	45	1998	Plate F Boxcar with double 8' plug door, 286,000 GRL, AAR Code A 606, manufactured by Trinity Industries, Inc.	CHTT 101100- 101144, inclusive	None.
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**Exhibit B**  
**to Memorandum of Mortgage**

**LIST OF LEASES AND OTHER OPERATIVE AGREEMENTS**

**Lease #**

1. Railroad Car Net Lease Agreement dated as of May 20, 1985, by and between The CIT Group/Equipment Financing, Inc. (as assignee of Trinity Rail Leasing Trust II) and Cargill Incorporated to the extent the same relates to the Equipment.  
  
Rider Six (6) to Railroad Car Net Lease dated as of November 12, 2002, between The CIT Group/Equipment Financing, Inc. (as assignee of Trinity Rail Leasing Trust II) and Cargill Incorporated.  
  
Bill of Sale and Assignment and Assumption Agreement dated as of February 26, 2003, from Trinity Industries Leasing Company to Trinity Rail Leasing Trust II.  
  
Bill of Sale and Assignment and Assumption Agreement dated as of March 25, 2003, from Trinity Industries Leasing Company to Trinity Rail Leasing Trust II.  
  
Consent Letter and Acknowledgment dated May 21, 2003, from Cargill Incorporated to The CIT Group/Equipment Financing, Inc. and Trinity Rail Leasing Trust II.  
  
Assignment of Lease dated as of June 5, 2003, from Trinity Rail Leasing Trust II to The CIT Group/Equipment Financing, Inc.  
  
Amendment No. 1 to Assignment of Lease dated as of November 19, 2003, effective as of June 5, 2003, by and between The CIT Group/Equipment Financing, Inc. and Trinity Rail Leasing Trust II.  
  
Memorandum of Lease dated as of June 5, 2003, between The CIT Group/Equipment Financing, Inc. (as assignee of Trinity Rail Leasing Trust II) and Cargill Incorporated.  
  
Bill of Sale dated December 12, 2003 from The CIT Group/Equipment Financing, Inc. to Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 1" in Exhibit A hereto.  
  
Purchase Agreement [CIT/BBRF] dated as of December 12, 2003, between The CIT Group/Equipment Financing, Inc. and Babcock & Brown Rail Funding LLC, to the extent the same relates to the Equipment described under the caption "Lease # 1" in Exhibit A hereto.  
  
Assignment and Assumption Agreement, dated as of December 12, 2003, between The CIT Group/Equipment Financing, Inc. and Babcock & Brown Rail

Exhibit B  
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Funding LLC, in respect of the Equipment described under the caption "Lease # 1" in Exhibit A hereto.

Notice and Acknowledgment dated December 11, 2003, made by Babcock & Brown Rail Funding LLC and The CIT Group/Equipment Financing, Inc. to Cargill Incorporated, in respect of the Equipment described under the caption "Lease # 1" in Exhibit A hereto.

Notice Pursuant to Notice and Acknowledgment dated December 12, 2003, made by Babcock & Brown Rail Funding LLC and The CIT Group/Equipment Financing, Inc. to Cargill Incorporated, in respect of the Equipment described under the caption "Lease # 1" in Exhibit A hereto.

Warranty Assignment [Cargill] dated as of December 12, 2003, between The CIT Group/Equipment Financing, Inc., as assignor thereunder, and Babcock & Brown Rail Funding LLC, as assignee thereunder, in respect of the Equipment described under the caption "Lease # 1" in Exhibit A hereto.

Manufacturer's Consent dated December 8, 2003, made by Thrall Trinity Freightcar, Inc. to Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 1" in Exhibit A hereto.

Railcar Service Agreement [Cargill] dated as of December 12, 2003, between The CIT Group/Equipment Financing, Inc. and Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 1" in Exhibit A hereto.

2. Master Net Railcar Lease made as of June 1, 2002, effective as of August 6, 2001, between The CIT Group/Equipment Financing, Inc. and CEMEX, Inc. to the extent the same relates to the Equipment.

Schedule No. 01 to Master Net Railcar Lease made as of June 1, 2002, effective as of August 6, 2001, between The CIT Group/Equipment Financing, Inc. and CEMEX, Inc.

Memorandum of Railcar Lease dated as of June 21, 2002, between The CIT Group/Equipment Financing, Inc. and CEMEX, Inc.

Bills of Sale dated May 30, 2001, June 28, 2001, and July 30, 2001, from Thrall Car Manufacturing Company to The CIT Group/Equipment Financing, Inc. and the Certificates of Inspection executed by The CIT Group/Equipment Financing, Inc., in each case as they relate to the Equipment, with schedules to the Bills of Sale which have been redacted and which have been certified by the Seller as being extraneous to the present transaction.

Bill of Sale dated December 12, 2003 from The CIT Group/Equipment Financing, Inc. to Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 2" in Exhibit A hereto.

Purchase Agreement [CIT/BBRF] dated as of December 12, 2003, between The CIT Group/Equipment Financing, Inc. and Babcock & Brown Rail Funding LLC, to the extent the same relates to the Equipment described under the caption "Lease # 2" in Exhibit A hereto.

Assignment and Assumption Agreement, dated as of December 12, 2003, between The CIT Group/Equipment Financing, Inc. and Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 2" in Exhibit A hereto.

Notice and Acknowledgment dated December 10, 2003, made by Babcock & Brown Rail Funding LLC and The CIT Group/Equipment Financing, Inc. to CEMEX, Inc., in respect of the Equipment described under the caption "Lease # 2" in Exhibit A hereto.

Notice Pursuant to Notice and Acknowledgment dated December 12, 2003, made by Babcock & Brown Rail Funding LLC and The CIT Group/Equipment Financing, Inc. to CEMEX, Inc., in respect of the Equipment described under the caption "Lease # 2" in Exhibit A hereto.

Warranty Assignment [Cemex] dated as of December 12, 2003, between The CIT Group/Equipment Financing, Inc., as assignor thereunder, and Babcock & Brown Rail Funding LLC, as assignee thereunder, in respect of the Equipment described under the caption "Lease # 2" in Exhibit A hereto.

Manufacturer's Consent dated December 8, 2003, made by Thrall Car Manufacturing Company to Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 2" in Exhibit A hereto.

Railcar Service Agreement [Cemex] dated as of December 12, 2003, between The CIT Group/Equipment Financing, Inc. and Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 2" in Exhibit A hereto.

3. Master Railcar Lease made as of November 8, 2000, between The CIT Group/Equipment Financing, Inc. and the Tennessee Valley Authority to the extent the same relates to the Equipment.

Schedule No. 06 to Master Railcar Lease dated as of May 6, 2003, between The CIT Group/Equipment Financing, Inc. and the Tennessee Valley Authority.

Memorandum of Railcar Lease dated as of May 6, 2003, between The CIT Group/Equipment Financing, Inc. and the Tennessee Valley Authority.

Warranty Bill of Sale dated September 21, 2001, from Johnstown America Corporation to The CIT Group/Equipment Financing, Inc. and the Certificates of Acceptance executed by The CIT Group/Equipment Financing, Inc. in relation to the railcars identified in the Warranty Bill of Sale.

Bill of Sale dated December 12, 2003 from The CIT Group/Equipment Financing, Inc. to Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 3" in Exhibit A hereto.

Purchase Agreement [CIT/BBRF] dated as of December 12, 2003, between The CIT Group/Equipment Financing, Inc. and Babcock & Brown Rail Funding LLC, to the extent the same relates to the Equipment described under the caption "Lease # 3" in Exhibit A hereto.

Assignment and Assumption Agreement, dated as of December 12, 2003, between The CIT Group/Equipment Financing, Inc. and Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 3" in Exhibit A hereto.

Notice and Acknowledgment dated December 11, 2003, made by Babcock & Brown Rail Funding LLC and The CIT Group/Equipment Financing, Inc. to Tennessee Valley Authority, in respect of the Equipment described under the caption "Lease # 3" in Exhibit A hereto.

Notice Pursuant to Notice and Acknowledgment dated December 12, 2003, made by Babcock & Brown Rail Funding LLC and The CIT Group/Equipment Financing, Inc. to Tennessee Valley Authority, in respect of the Equipment described under the caption "Lease # 3" in Exhibit A hereto.

Warranty Assignment [TVA] dated as of December 12, 2003, between The CIT Group/Equipment Financing, Inc., as assignor thereunder, and Babcock & Brown Rail Funding LLC, as assignee thereunder, in respect of the Equipment described under the caption "Lease # 3" in Exhibit A hereto.

Manufacturer's Consent dated December 11, 2003, made by Johnstown America Corporation to Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 3" in Exhibit A hereto.

Railcar Service Agreement [TVA] dated as of December 12, 2003, between The CIT Group/Equipment Financing, Inc. and Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 3" in Exhibit A hereto.

Railcar Lease, made as of December 12, 2003, between Babcock & Brown Rail Funding LLC and The CIT Group/Equipment Financing, Inc.

Schedule No. 01 to Railcar Lease, made as of December 12, 2003, between Babcock & Brown Rail Funding LLC and The CIT Group/Equipment Financing, Inc.

Sublease Assignment Agreement, dated as of December 12, 2003, between The CIT Group/Equipment Financing, Inc. and Babcock & Brown Rail Funding LLC.

Memorandum of Lease and Assignment of Sublease, dated as of December 12, 2003, between The CIT Group/Equipment Financing, Inc. and Babcock & Brown Rail Funding LLC.

4. Master Railcar Lease made as of June 7, 1999, between The CIT Group/Equipment Financing, Inc. and A.E. Staley Manufacturing Co., incorporated by reference in Schedule No. 07 to Master Railcar Lease made as of January 15, 2003, between C.I.T. Leasing Corporation and A.E. Staley Manufacturing Co., as amended by a letter agreement among C.I.T. Leasing Corporation, A.E. Staley Manufacturing Co. and Babcock & Brown Rail Funding LLC.

Memorandum of Railcar Lease dated as of January 15, 2003, between C.I.T. Leasing Corporation and A.E. Staley Manufacturing Co.

Bills of Sale dated March 1, 2003, from Thrall Trinity Freightcar, Inc. to C.I.T. Leasing Corporation and the Certificates of Acceptance in relation to the railcars identified in each Bill of Sale.

Bill of Sale dated December 12, 2003 from C.I.T. Leasing Corporation to Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 4" in Exhibit A hereto.

Purchase Agreement [CITL/BBRF] dated as of December 12, 2003, between C.I.T. Leasing Corporation and Babcock & Brown Rail Funding LLC, to the extent the same relates to the Equipment described under the caption "Lease # 4" in Exhibit A hereto.

Assignment and Assumption Agreement, dated as of December 12, 2003, between C.I.T. Leasing Corporation and Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 4" in Exhibit A hereto.

Notice and Acknowledgment dated November 26, 2003, made by Babcock & Brown Rail Funding LLC and C.I.T. Leasing Corporation to A.E. Staley Manufacturing Co., in respect of the Equipment described under the caption "Lease # 4" in Exhibit A hereto.

Notice Pursuant to Notice and Acknowledgment dated December 12, 2003, made by Babcock & Brown Rail Funding LLC and C.I.T. Leasing Corporation to A.E. Staley Manufacturing Co., in respect of the Equipment described under the caption "Lease # 4" in Exhibit A hereto.

Warranty Assignment [Staley] dated as of December 12, 2003, between C.I.T. Leasing Corporation, as assignor thereunder, and Babcock & Brown Rail Funding LLC, as assignee thereunder, in respect of the Equipment described under the caption "Lease # 4" in Exhibit A hereto.

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Manufacturer's Consent dated December 8, 2003, made by Thrall Trinity Freightcar, Inc. to Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 4" in Exhibit A hereto.

Railcar Service Agreement [Staley] dated as of December 12, 2003, between The CIT Group/Equipment Financing, Inc. and Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 4" in Exhibit A hereto.

5. Rider No. 1 dated as of March 31, 2003, by and between C.I.T. Leasing Corporation and South Carolina Public Service Authority, as amended by Amendment to Railcar Lease Agreement made as of November 19, 2003, between C.I.T. Leasing Corporation and South Carolina Public Service Authority, incorporating the terms of Railcar Lease Agreement made as of October 1, 2000, between The CIT Group/Equipment Financing, Inc. and South Carolina Public Service Authority, as amended by Amendment and Extension to Railcar Lease Agreement made as of January 15, 2003, between The CIT Group/Equipment Financing, Inc. and South Carolina Public Service Authority, (excluding Rider A and Rider B thereto, which have been redacted and which have been certified by the Seller as being extraneous to the present transaction), to the extent the same relates to the Equipment.

Memorandum of Railcar Lease dated as of March 31, 2003, between C.I.T. Leasing Corporation and South Carolina Public Service Authority.

Warranty Bills of Sale dated March 10, 2003, March 21, 2003, and March 31, 2003, from Johnstown America Corporation to C.I.T. Leasing Corporation and Certificates of Acceptance executed by C.I.T. Leasing Corporation in relation to the railcars identified in each Warranty Bill of Sale.

Bill of Sale dated December 12, 2003 from C.I.T. Leasing Corporation to Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 5" in Exhibit A hereto.

Purchase Agreement [CITL/BBRF] dated as of December 12, 2003, between C.I.T. Leasing Corporation and Babcock & Brown Rail Funding LLC, to the extent the same relates to the Equipment described under the caption "Lease # 5" in Exhibit A hereto.

Assignment and Assumption Agreement, dated as of December 12, 2003, between C.I.T. Leasing Corporation and Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 5" in Exhibit A hereto.

Notice and Acknowledgment dated December 4, 2003, made by Babcock & Brown Rail Funding LLC and C.I.T. Leasing Corporation to South Carolina Public Service Authority, in respect of the Equipment described under the caption "Lease # 5" in Exhibit A hereto.

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Notice Pursuant to Notice and Acknowledgment dated December 12, 2003, made by Babcock & Brown Rail Funding LLC and C.I.T. Leasing Corporation to South Carolina Public Service Authority, in respect of the Equipment described under the caption "Lease # 5" in Exhibit A hereto.

Warranty Assignment [SCPSA] dated as of December 12, 2003, between C.I.T. Leasing Corporation, as assignor thereunder, and Babcock & Brown Rail Funding LLC, as assignee thereunder, in respect of the Equipment described under the caption "Lease # 5" in Exhibit A hereto.

Manufacturer's Consent dated December 11, 2003, made by Johnstown America Corporation to Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 5" in Exhibit A hereto.

Railcar Service Agreement [SCPSA] dated as of December 12, 2003, between The CIT Group/Equipment Financing, Inc. and Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 5" in Exhibit A hereto.

Rent Support Agreement, dated as of December 12, 2003, by and between The CIT Group/Equipment Financing, Inc. and Babcock & Brown Rail Funding LLC.

6. Master Railcar Lease made as of July 16, 1998, between The CIT Group/Equipment Financing, Inc. and BC Rail Partnership, incorporated by reference in Rider No. 03 to Master Railcar Lease made as of March 13, 2003, between C.I.T. Leasing Corporation and BC Rail Partnership, as amended by a letter agreement among C.I.T. Leasing Corporation, BC Rail Partnership and Babcock & Brown Rail Funding LLC.

Memorandum of Railcar Lease dated as of March 13, 2003, between C.I.T. Leasing Corporation and BC Rail Partnership.

Bills of Sale dated January 31, 2003, and February 11, 2003, from National Steel Car Limited to C.I.T. Leasing Corporation and the Certificates of Acceptance executed by C.I.T. Leasing Corporation in relation to the railcars identified in each Bill of Sale.

Bill of Sale dated December 12, 2003 from C.I.T. Leasing Corporation to Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 6" in Exhibit A hereto.

Purchase Agreement [CITL/BBRF] dated as of December 12, 2003, between C.I.T. Leasing Corporation and Babcock & Brown Rail Funding LLC, to the extent the same relates to the Equipment described under the caption "Lease # 6" in Exhibit A hereto.

Assignment and Assumption Agreement, dated as of December 12, 2003, between C.I.T. Leasing Corporation and Babcock & Brown Rail Funding LLC, in

respect of the Equipment described under the caption "Lease # 6" in Exhibit A hereto.

Notice and Acknowledgment dated November 26, 2003, made by Babcock & Brown Rail Funding LLC and C.I.T. Leasing Corporation to BC Rail Partnership, in respect of the Equipment described under the caption "Lease # 6" in Exhibit A hereto.

Notice Pursuant to Notice and Acknowledgment dated December 12, 2003, made by Babcock & Brown Rail Funding LLC and C.I.T. Leasing Corporation to BC Rail Partnership, in respect of the Equipment described under the caption "Lease # 6" in Exhibit A hereto.

Warranty Assignment [BC Rail #1] dated as of December 12, 2003, between C.I.T. Leasing Corporation, as assignor thereunder, and Babcock & Brown Rail Funding LLC, as assignee thereunder, in respect of the Equipment described under the caption "Lease # 6" in Exhibit A hereto.

Manufacturer's Consent dated December 8, 2003, made by National Steel Car Limited to Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 6" in Exhibit A hereto.

Railcar Service Agreement [BC Rail #1] dated as of December 12, 2003, between The CIT Group/Equipment Financing, Inc. and Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 6" in Exhibit A hereto.

7. Master Railcar Lease made as of July 16, 1998, between The CIT Group/Equipment Financing, Inc. and BC Rail Partnership, incorporated by reference in Rider No. 04 to Master Railcar Lease made as of March 13, 2003, between C.I.T. Leasing Corporation and BC Rail Partnership, as amended by a letter agreement among C.I.T. Leasing Corporation, BC Rail Partnership and Babcock & Brown Rail Funding LLC.

Memorandum of Railcar Lease dated as of March 13, 2003, between C.I.T. Leasing Corporation and BC Rail Partnership.

Bills of Sale dated February 28, 2003, March 15, 2003, and March 31, 2003, from TrentonWorks Limited to The CIT Group/Equipment Financing, Inc. and the Certificates of Acceptance executed by The CIT Group/Equipment Financing, Inc. in relation to the railcars identified in each Bill of Sale.

Bill of Sale dated December 9, 2003, from The CIT Group/Equipment Financing, Inc. to C.I.T. Leasing Corporation with respect to the Equipment.

Bill of Sale dated December 12, 2003 from C.I.T. Leasing Corporation to Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 7" in Exhibit A hereto.

Purchase Agreement [CITL/BBRF] dated as of December 12, 2003, between C.I.T. Leasing Corporation and Babcock & Brown Rail Funding LLC, to the extent the same relates to the Equipment described under the caption "Lease # 7" in Exhibit A hereto.

Assignment and Assumption Agreement, dated as of December 12, 2003, between C.I.T. Leasing Corporation and Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 7" in Exhibit A hereto.

Notice and Acknowledgment dated November 26, 2003, made by Babcock & Brown Rail Funding LLC and C.I.T. Leasing Corporation to BC Rail Partnership, in respect of the Equipment described under the caption "Lease # 7" in Exhibit A hereto.

Notice Pursuant to Notice and Acknowledgment dated December 12, 2003, made by Babcock & Brown Rail Funding LLC and C.I.T. Leasing Corporation to BC Rail Partnership, in respect of the Equipment described under the caption "Lease # 7" in Exhibit A hereto.

Warranty Assignment [BC Rail #2] dated as of December 12, 2003, between C.I.T. Leasing Corporation, as assignor thereunder, and Babcock & Brown Rail Funding LLC, as assignee thereunder, in respect of the Equipment described under the caption "Lease # 7" in Exhibit A hereto.

Manufacturer's Consent dated December 9, 2003, made by TrentonWorks Limited to Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 7" in Exhibit A hereto.

Railcar Service Agreement [BC Rail #2] dated as of December 12, 2003, between The CIT Group/Equipment Financing, Inc. and Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 7" in Exhibit A hereto.

8. Lease Agreement dated as of March 3, 1997, between Flex Leasing Corporation and Norfolk Southern Railway Company to the extent the same relates to the Equipment.

Lease Amendment Number 1 executed and delivered February 2, 1999, between Flex Leasing Corporation and Norfolk Southern Railway Company.

Rider No. 3A to Lease Agreement executed and delivered February 5, 1999, between Flex Leasing Corporation and Norfolk Southern Railway Company.

Amendment Number 1 to Rider No. 3A executed and delivered August 13, 1999, between Flex Leasing Corporation and Norfolk Southern Railway Company to the extent the same relates to the Equipment.



Amendment Number 2 to Rider No. 3A executed and delivered January 1, 2001, between Flex Leasing II, LLC (as assignee of Flex Leasing Corporation) and Norfolk Southern Railway Company.

Sale, Assignment and Assumption Agreement dated as of August 31, 1999, between Flex Leasing Corporation and Flex Leasing II, LLC (with redacted Section 2.01(a), Schedule I and Schedule II thereto, which have been certified by the Seller as being extraneous to the present transaction).

Memorandum of Lease dated as of August 31, 1999, between Flex Leasing II, LLC and Norfolk Southern Railway Company.

Bill of Sale dated August 31, 1999 from National Steel Car Limited to Flex Leasing II, LLC.

Bill of Sale dated December 12, 2003 from Flex Leasing II, LLC to Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 8" in Exhibit A hereto.

Purchase Agreement [FLEX/BBRF] dated as of December 12, 2003, between Flex Leasing II, LLC and Babcock & Brown Rail Funding LLC, to the extent the same relates to the Equipment described under the caption "Lease # 8" in Exhibit A hereto.

Assignment and Assumption Agreement, dated as of December 12, 2003, between Flex Leasing II, LLC and Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 8" in Exhibit A hereto.

[Notice and Acknowledgment dated December 11, 2003, made by Babcock & Brown Rail Funding LLC and Flex Leasing II, LLC to Norfolk Southern Railway Company, in respect of the Equipment described under the caption "Lease # 8" in Exhibit A hereto.]

Notice dated December 12, 2003, made by Babcock & Brown Rail Funding LLC and Flex Leasing II, LLC to Norfolk Southern Railway Company, in respect of the Equipment described under the caption "Lease # 8" in Exhibit A hereto.

Warranty Assignment [NSR] dated as of December 12, 2003, between Flex Leasing II, LLC, as assignor thereunder, and Babcock & Brown Rail Funding LLC, as assignee thereunder, in respect of the Equipment described under the caption "Lease # 8" in Exhibit A hereto.

Manufacturer's Consent dated December 8, 2003, made by National Steel Car Limited to Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 8" in Exhibit A hereto.

Railcar Service Agreement [NSR] dated as of December 12, 2003, between The CIT Group/Equipment Financing, Inc. and Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 8" in Exhibit A hereto.

9. Master Car Lease Agreement dated as of June 29, 1999, by and between Flex Leasing Corporation and Union Pacific Railroad Company to the extent the same relates to the Equipment.

Schedule No. 01 to Master Car Lease Agreement dated as of July 2, 1999, between Flex Leasing Corporation and Union Pacific Railway Company.

Sale, Assignment and Assumption Agreement dated as of August 31, 1999, between Flex Leasing Corporation and Flex Leasing II, LLC (with redacted Section 2.01(a), Schedule I and Schedule II thereto, which have been certified by the Seller as being extraneous to the present transaction).

Amendment No. 1 to Schedule No. 01 dated as of February 28, 2002, between Flex Leasing II, LLC (as assignee of Flex Leasing Corporation) and Union Pacific Railroad Company.

Memorandum of Lease dated as of August 31, 1999, between Flex Leasing II, LLC and Union Pacific Railroad Company.

Bill of Sale dated April 26, 1999, from Trinity Industries, Inc. to Flex Leasing Corporation.

Bill of Sale dated August 31, 1999, from Flex Leasing Corporation to Flex Leasing II, LLC.

Bill of Sale dated December 12, 2003 from Flex Leasing II, LLC to Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 9" in Exhibit A hereto.

Purchase Agreement [FLEX/BBRF] dated as of December 12, 2003, between Flex Leasing II, LLC and Babcock & Brown Rail Funding LLC, to the extent the same relates to the Equipment described under the caption "Lease # 9" in Exhibit A hereto.

Assignment and Assumption Agreement, dated as of December 12, 2003, between Flex Leasing II, LLC and Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 9" in Exhibit A hereto.

[Notice and Acknowledgment dated December 11, 2003, made by Babcock & Brown Rail Funding LLC and Flex Leasing II, LLC to Union Pacific Railroad Company, in respect of the Equipment described under the caption "Lease # 9" in Exhibit A hereto.]

Sale Date Notice dated December 12, 2003, made by Babcock & Brown Rail Funding LLC and Flex Leasing II, LLC to Union Pacific Railroad Company, in respect of the Equipment described under the caption "Lease # 9" in Exhibit A hereto.

Railcar Service Agreement [UPRR] dated as of December 12, 2003, between The CIT Group/Equipment Financing, Inc. and Babcock & Brown Rail Funding LLC, in respect of the Equipment described under the caption "Lease # 9" in Exhibit A hereto.

Together with all substitutions, replacements and renewals of the property above described, and all property which shall hereafter become physically attached to or incorporated in the property above described, whether the Debtor now has rights therein or such rights shall hereafter be acquired by it.

**CERTIFICATION**

I, Edward M. Luria, an attorney licensed to practice in the District of Columbia, the State of Delaware and the Commonwealth of Pennsylvania, do hereby certify under penalty of perjury that I have compared the attached copy of a Memorandum of Mortgage with the original thereof and have found the copy to be complete and identical in all respects to the original document.

Dated: December 12, 2003 Edward M. Luria  
Edward M. Luria